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13 e.Digital Corporation

14 **UNITED STATES DISTRICT COURT**  
15 **SOUTHERN DISTRICT OF CALIFORNIA**

16 e.Digital Corporation,

17 Plaintiff,

18 v.

19 Wintec Industries, Inc,

20 Defendant.

Case No. '13CV2942 MMARBB

**ATTACHMENT TO  
COMPLAINT FOR PATENT  
INFRINGEMENT**

**DEMAND FOR JURY TRIAL**

21 TO THE CLERK OF THE UNITED STATES DISTRICT COURT FOR  
22 THE SOUTHERN DISTRICT OF CALIFORNIA:

23 Pursuant to Local Civil Rule 40.1(f) and/or in an abundance of caution,  
24 Plaintiff, e.Digital Corporation (“Plaintiff” or “e.Digital”) and its counsel hereby  
25 identify the following cases which may be considered related to the above-entitled  
26 matter (“This Filed Case”). The following cases (“*In re e.Digital Cases*”) are  
27 currently pending and/or otherwise have been filed in the Southern District:

28 1) **Case No. 3:12-cv-02543-DMS-WVG**, *e.Digital Corporation v.*  
*Diasonic Technology Co. LTD, et al.* (the first filed case, filed October 19, 2012;  
voluntarily dismissed on or about May 6, 2013);

1           2)    **Case No. 3:12-cv-02571-CAB-WVG**, *e.Digital Corporation v.*,  
2 *Yamaha Corporation of America, et al.* (filed October 22, 2012; voluntarily  
3 dismissed on or about January 28, 2013);

4           3)    **Case No. 3:12-cv-2580-DMS-WVG**, *e.Digital Corporation v. Korg*  
5 *Inc., et al.* (filed October 22, 2012; voluntarily dismissed on or about April 18,  
6 2013);

7           4)    **Case No. 3:12-cv-2696-DMS-WVG**, *e.Digital Corporation v.*  
8 *Grundig Intermedia GmbH, et al.* (filed November 5, 2012; consent judgment  
9 entered on or about June 26, 2013);

10          5)    **Case No. 3:12-cv-02698-DMS-WVG**, *e.Digital Corporation v.*  
11 *SanDisk Corporation* (filed November 5, 2012; currently assigned to the  
12 Honorable Judge Dana M. Sabraw and the Honorable Magistrate Judge William V.  
13 Gallo);

14          6)    **Case No. 3:12-cv-02701-DMS-WVG** *e.Digital Corporation v.*  
15 *Philips Electronics North America Corporation* (filed November 5, 2012; notice of  
16 settlement filed on or about October 29, 2013; currently assigned to the Honorable  
17 Judge Dana M. Sabraw and the Honorable Magistrate Judge William V. Gallo);

18          7)    **Case No. 3:12-cv-02800-DMS-WVG**, *e.Digital Corporation v.*  
19 *iriver, Ltd, et al.* (filed November 20, 2012; voluntarily dismissed on or about May  
20 21, 2013);

21          8)    **Case No. 3:12-cv-02801-CAB-WVG**, *e.Digital Corporation v.*  
22 *Shaghal, LTD. dba eMatic, et al.* (filed November 20, 2012; voluntarily dismissed  
23 on or about April 15, 2013);

24          9)    **Case No. 3:12-cv-02825-DMS-WVG**, *e.Digital Corporation v. GPX,*  
25 *Inc., et al.* (filed November 26, 2012; voluntarily dismissed on or about October  
26 18, 2013);

27          10)   **Case No. 3:12-cv-02877-DMS-WVG**, *e.Digital Corporation v. Mach*  
28 *Speed Technologies, LLC et al* (filed December 4, 2012; notice of settlement filed

on or about November 1, 2013; currently assigned to the Honorable Judge Dana M. Sabraw and the Honorable Magistrate Judge William V. Gallo);

11) **Case No. 3:12-cv-02879-DMS-WVG**, *e.Digital Corporation v. Creative Labs, Inc., et al.* (filed December 4, 2012; voluntarily dismissed on or about May 24, 2013);

12) **Case No. 3:12-cv-02891-DMS-WVG**, *e.Digital Corporation v. Osram Sylvania, Inc., et al.* (filed December 4, 2012; voluntarily dismissed on or about September 13, 2013);

13) **Case No. 3:12-cv-02899-DMS-WVG**, *e.Digital Corporation v. Woodman Labs, Inc., et al.* (filed December 5, 2012; currently assigned to the Honorable Judge Dana M. Sabraw and the Honorable Magistrate Judge William V. Gallo);

14) **Case No. 3:12-cv-02997-DMS-WVG**, *e.Digital Corporation v. MiTAC Digital Corporation, et al.* (filed December 17, 2012; voluntarily dismissed on or about June 28, 2013);

15) **Case No. 3:13-cv-00023-DMS-WVG**, *e.Digital Corporation v. Pantech Wireless, Inc. et al.* (filed January 4, 2013; currently assigned to the Honorable Judge Dana M. Sabraw and the Honorable Magistrate Judge William V. Gallo);

16) **Case No. 3:13-cv-00112-DMS-WVG**, *e.Digital Corporation v. FUJIFILM Corporation, et al.* (filed January 15, 2013; notice of settlement filed on or about November 4, 2013; currently assigned to the Honorable Judge Dana M. Sabraw and the Honorable Magistrate Judge William V. Gallo);

17) **Case No. 3:13-cv-00356-DMS-WVG** *e.Digital Corporation v. JVC Americas Corp., et al.* (filed February 13, 2013; voluntarily dismissed on or about November 29, 2013);

18) **Case No. 3:13-cv-00780-DMS-WVG**, *e.Digital Corporation v. Motorola Mobility LLC* (filed April 1, 2013; currently assigned to the Honorable

1 Judge Dana M. Sabraw and the Honorable Magistrate Judge William V. Gallo);

2 19) **Case No. 3:13-cv-00781-DMS-WVG**, *e.Digital Corporation v.*  
3 *Research in Motion Limited, dba BlackBerry, et al* (filed April 1, 2013; currently  
4 assigned to the Honorable Judge Dana M. Sabraw and the Honorable Magistrate  
5 Judge William V. Gallo);

6 20) **Case No. 3:13-cv-00782-DMS-WVG**, *e.Digital Corporation v. ZTE*  
7 *Corporation, et al.* (filed April 1, 2013; currently assigned to the Honorable Judge  
8 Dana M. Sabraw and the Honorable Magistrate Judge William V. Gallo);

9 21) **Case No. 3:13-cv-00783-DMS-WVG**, *e.Digital Corporation v., Huawei*  
10 *Technologies Co., Ltd., et al.* (filed April 1, 2013; dismissal and/or stipulated  
11 judgment entered on or about October 7, 2013; notice of appeal filed on or about  
12 October 8, 2013; appeal entitled *e.Digital Corporation v. Futurewei Technologies,*  
13 *Inc., et al.* currently pending in the United States Court of Appeals for the Federal  
14 Circuit, USCA Case Number 14-1019); and,

15 22) **Case No. 3:13-cv-00785-DMS-WVG**, *e.Digital Corporation v. Apple*  
16 *Inc.* (filed April 1, 2013; currently assigned to the Honorable Judge Dana M.  
17 Sabraw and the Honorable Magistrate Judge William V. Gallo).

18 In good faith, e.Digital states that it does not believe that the *In re e.Digital*  
19 Cases listed above qualify as related cases with respect to This Filed Case pursuant  
20 to Local Civil Rule 40.1 inasmuch as:

21 1) Except for fact that e.Digital is the Plaintiff and that the *In re e.Digital*  
22 Cases involve patent infringement, none of the same and/or substantially the same  
23 parties, facts, or transactions are involved in This Filed Case and the *In re e.Digital*  
24 Cases;

25 2) While a claim for damages with respect to the infringement of United  
26 States Patent No. 5,839,108 (“the ’108 patent”) may have been asserted in one or  
27 more of the *In re e.Digital* Cases, Claim 1 of the ’108 patent which is the only  
28 asserted claim in This Filed Case is not asserted in any of the *In re e.Digital* Cases;

1           3)     While a claim for damages with respect to the infringement of certain  
2 United States patents have been asserted in the *In re e.Digital* Cases, none of the  
3 claims from the patents asserted therein are asserted in This Filed Case; and,

4           4)     Other than the ‘108 patent, none of the other e.Digital patents asserted  
5 in the *In re e.Digital* Cases are asserted in This Filed Case.

6           Further, e.Digital asserts that judicial resources may not be conserved by the  
7 assignment of this matter to the Court currently overseeing the pending and/or  
8 active *In re e.Digital* Cases. The *In re e.Digital* Cases that are still pending and/or  
9 are still active were filed a year or more ago and have progressed significantly  
10 since that time. Discovery as to claim construction issues has commenced in those  
11 matters. The parties in the *In re e.Digital* Cases have also exchanged preliminary  
12 infringement and invalidity contentions. *Markman* hearings have also already been  
13 set in the *In re e.Digital* Cases for March of 2014.

14           Additionally, as stated above, different patent infringement claims are at  
15 issue given that Claim 1 of the ‘108 is not asserted at this time in any of the *In re*  
16 *e.Digital* Cases. It is anticipated that e.Digital will be filing thirty (30) or more  
17 new cases at or around the same time as This Filed Case has been and/or is filed.  
18 These new cases will and/or do assert Claim 1 of the ‘108, but are not anticipated  
19 to assert any of the claims from the other patents asserted in the *In re e.Digital*  
20 Cases.

21           Further, given that more than ten (10) of the *In re e.Digital* Cases have been  
22 and/or were assigned to the judge overseeing those matters, the Honorable Judge  
23 Dana M. Sabraw (“Judge Sabraw”), it may be overly burdensome to assign This  
24 Filed Matter (and the other related thirty or more newly filed matters) to Judge  
25 Sabraw. Judge Sabraw may and/or does have the discretion not to consent to the  
26 transfer of This Filed Case pursuant to Local Civil Rule 40.1 (j).

27           e.Digital respectfully brings the above to the Court’s attention pursuant to  
28 the provisions of Local Civil Rule 40.1(f) which requires a brief statement with

1 respect to the relationship between This Filed Matter and the above listed matters  
2 as well as the reasons why assignment to a single district judge is or is not likely to  
3 effect a saving of judicial effort and other economies.

4  
5 Respectfully submitted,  
6 Dated: December 6, 2013 **HANDAL & ASSOCIATES**

7 By: /s/ Pamela C. Chalk  
8 Anton N. Handal  
9 Gabriel G. Hedrick  
10 Pamela C. Chalk  
11 Attorneys for Plaintiff  
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